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15 *Attorneys for Plaintiffs*

16 UNITED STATES DISTRICT COURT
17 EASTERN DISTRICT OF CALIFORNIA, FRESNO DIVISION
18

19 Charles Criswell, Levi Johnson, Samuel
Camposeco, Adam Ibarra, and California
20 Attorneys for Criminal Justice,

21 Plaintiffs,

22 vs.

23 Michael Boudreaux, in his official capacity as
Sheriff of Tulare County,

24 Defendant.
25
26

Case No. 1:20-cv-01048-DAD-SAB

**ORDER RE STIPULATION FOR
PROTECTIVE ORDER**

DISCOVERY MATTER

Filed concurrently with [Proposed] Order

Judge: Hon. Stanley A. Boone
Crtrm.: 9

(ECF No. 34)

1 1. INTRODUCTION

2 1.1. PURPOSES AND LIMITATIONS

3 Discovery in this action is likely to involve production of confidential, proprietary, or
4 private information for which special protection from public disclosure and from use for any
5 purpose other than prosecuting this litigation may be warranted. Accordingly, the parties hereby
6 stipulate to and petition the Court to enter the following Stipulated Protective Order (“Order”).
7 The parties acknowledge that this Order does not confer blanket protections on all disclosures or
8 responses to discovery and that the protection it affords from public disclosure and use extends
9 only to the limited information or items that are entitled to confidential treatment under the
10 applicable legal principles. The parties further acknowledge, as set forth in Section 12.3, below,
11 that this Stipulated Protective Order does not entitle them to file confidential information under
12 seal; Local Rule 141 sets forth the procedures that must be followed and the standards that will be
13 applied when a party seeks permission from the court to file material under seal.

14 1.2. GOOD CAUSE STATEMENT

15 Good cause exists for this stipulated protective order. This action makes allegations
16 concerning measures that Defendant has taken at the detention facilities managed by the Tulare
17 County Sheriff’s Office, including Bob Wiley Detention Facility (“BWDF”), Adult Pre-Trial
18 Facility (“APTF”), and South County Detention Facility (“South County”) (collectively, “the
19 Jails”) in response to COVID-19. On September 2, 2020, the Court provisionally certified a class
20 defined as “all people who are now, or in the future will be, incarcerated in Tulare County Jails”
21 (the “Class”). (Doc. No. 26 at 21.)

22 The Parties anticipate that the litigation will require the disclosure and exchange of the
23 health care records and health information of the Class, and potentially of third parties who are
24 employees in the Jails. For example, the Court has entered an order permitting Plaintiffs to serve
25 early discovery, and that discovery is likely to include a request for certain medical records. The
26 exchange of such materials warrants special protection from public disclosures and from use for
27 any purpose outside of this action. Such confidential materials consist of information that is
28 otherwise generally unavailable to the public, or which may be privileged or otherwise protected

1 from disclosure under state and federal statutes. Accordingly, to protect such information, and to
2 ensure that the Parties are permitted reasonable uses of such material in preparation for trial and to
3 address their handling at the end of litigation, a protective order for such information is justified in
4 this matter. This protective order applies only to the health care records and health information of
5 the Class, and does not apply to other documents exchanged by the Parties.

6 The Parties further anticipate that the litigation is likely to involve trade secrets, customer
7 and pricing lists and other valuable research, development, commercial, financial, technical and/or
8 proprietary information from Defendant's health services administrator for which special
9 protection from public disclosure and from use for any purpose other than prosecution of this
10 action is warranted. Such confidential and proprietary materials and information consist of,
11 among other things, confidential business or financial information, information regarding
12 confidential business practices, or other confidential research, development, or commercial
13 information (including information implicating privacy rights of third parties), information
14 otherwise generally unavailable to the public, or which may be privileged or otherwise protected
15 from disclosure under state or federal statutes, court rules, case decisions, or common law.
16 Accordingly, to expedite the flow of information, to facilitate the prompt resolution of disputes
17 over confidentiality of discovery materials, to adequately protect information the parties are
18 entitled to keep confidential, to ensure that the parties are permitted reasonable necessary uses of
19 such material in preparation for and in the conduct of trial, to address their handling at the end of
20 the litigation, and serve the ends of justice, a protective order for such information is justified in
21 this matter. It is the intent of the parties that information will not be designated as confidential for
22 tactical reasons and that nothing be so designated without a good faith belief that it has been
23 maintained in a confidential, non-public manner, and there is good cause why it should not be part
24 of the public record of this case.

25 2. DEFINITIONS

26 2.1. Action: The above-captioned federal lawsuit, *Criswell, et al. v. Boudreaux*, CV
27 1:20-cv-01048-DAD-SAB.

28 2.2. Challenging Party: A Party or Non-Party that challenges the designation of

1 information or items under this Order.

2 2.3. “CONFIDENTIAL” Information or Items: Information (regardless of how it is
3 generated, stored, or maintained) or tangible things that qualify for protection under Federal Rule
4 of Civil Procedure 26(c), and as specified above in the Good Cause Statement.

5 2.4. Counsel: Outside Counsel of Record and House Counsel (as well as their support
6 staff).

7 2.5. Designating Party: A Party or Non-Party that designates information or items that it
8 produces in disclosures or in responses to discovery as “CONFIDENTIAL.”

9 2.6. Disclosure or Discovery Material: All items or information, regardless of the
10 medium or manner in which it is generated, stored, or maintained (including, among other things,
11 testimony, transcripts, and tangible things), that are produced or generated in disclosures or
12 responses to discovery in this matter.

13 2.7. Expert: A person with specialized knowledge or experience in a matter pertinent to
14 the litigation who has been retained by a Party or its counsel to serve as an expert witness or as a
15 consultant in this Action.

16 2.8. House Counsel: Attorneys who are employees of a party to this Action. House
17 Counsel does not include Outside Counsel of Record or any other outside counsel.

18 2.9. Non-Party: Any natural person, partnership, corporation, association, or other legal
19 entity not named as a Party to this action.

20 2.10. Outside Counsel of Record: Attorneys who are not employees of a party to this
21 Action but are retained to represent or advise a party to this Action and have appeared in this
22 Action on behalf of that party or are affiliated with a law firm which has appeared on behalf of
23 that party, and includes support staff.

24 2.11. Party: Any party to this Action, including all of its officers, directors, employees,
25 consultants, retained experts, and Outside Counsel of Record (and their support staffs).

26 2.12. Producing Party: A Party or Non-Party that produces Disclosure or Discovery
27 Material in this Action.

28 2.13. Professional Vendors: Persons or entities that provide litigation support services

1 (e.g., photocopying, videotaping, translating, preparing exhibits or demonstrations, and
2 organizing, storing, or retrieving data in any form or medium) and their employees and
3 subcontractors.

4 2.14. Protected Material: Any Disclosure or Discovery Material that is designated as
5 “CONFIDENTIAL,” and/or “PROTECTED HEALTH INFORMATION – SUBJECT TO
6 PROTECTIVE ORDER.”

7 2.15. Receiving Party: A Party that receives Disclosure or Discovery Material from a
8 Producing Party.

9 2.16. HIPAA: The law known as Health Insurance Portability and Accountability Act of
10 1996, codified primarily at Sections 18, 26, and 42 of the United States Code.

11 2.17. Privacy Standards: The Standards for Privacy of Individually Identifiable Health
12 Information, codified at 45 C.F.R. §§ 160 and 164.

13 2.18. Protected Health Information: Any Discovery or Discovery Material that fits within
14 the meaning set forth in 45 C.F.R. §§ 160.103, 164.501, and 164.514, including the following
15 subscriber, patient, or member identifiers: (a) names; (b) all geographic subdivisions smaller than
16 a State, including street address, city, county precinct, and zip code; (c) all elements of dates
17 (except year) for dates directly related to an individual, including birth day, admission date,
18 discharge date, and date of death; (d) telephone numbers; (e) fax numbers; (f) electronic mail
19 addresses; (g) social security numbers; (h) medical record numbers; (i) health plan beneficiary
20 numbers; (j) account numbers; (k) certificate/license numbers; (l) vehicle identifiers and serial
21 numbers, including license plate numbers; (m) device identifiers and serial numbers; (n) web
22 universal resource locators (“URLs”); internet protocol (“IP”) address numbers; (p) biometric
23 identifiers, including finger and voice prints; (q) full face photographic images and any
24 comparable images; and/or (r) any other unique identifying number, characteristic, or code.

25 3. SCOPE

26 The protections conferred by this Stipulation and Order cover not only Protected Material
27 (as defined above), but also (1) any information copied or extracted from Protected Material; (2)
28 all copies, excerpts, summaries, or compilations of Protected Material; and (3) any testimony,

1 conversations, or presentations by Parties or their Counsel that might reveal Protected Material.
2 However, the protections conferred by this Stipulation and Order do not cover the following
3 information: (a) any information that is in the public domain at the time of disclosure to a
4 Receiving Party or that becomes part of the public domain after its disclosure to a Receiving Party
5 as a result of publication not involving a violation of this Order, including becoming part of the
6 public record through trial or otherwise; and (b) any information known to the Receiving Party
7 prior to the disclosure or obtained by the Receiving Party after the disclosure from a source who
8 obtained the information lawfully and under no obligation of confidentiality to the Designating
9 Party.

10 This Order does not, at this time, cover records for the Class that are: (1) HIV Test Result
11 Records subject to Health & Safety Code 120975; (2) Drug, alcohol and substance abuse treatment
12 records, pursuant to federal law at 42 C.F.R. Part 2, or (3) Mental Health records, which are
13 subject to special restrictions pursuant to the Lanterman-Petris-Short Act (LPS) codified in
14 Welfare & Institutions Code Sections 5328 et. seq. all of which have greater restrictions on their
15 disclosure which this order does not meet. This Order does not preclude disclosure under a
16 separate Order or an amendment of this Order, if the requirements set forth in the laws that address
17 these types are records are met.

18 Any use of Protected Material at trial will be governed by the orders of the trial judge. This
19 Order does not govern the use of Protected Material at trial.

20 4. DURATION

21 Even after final disposition of this litigation, the confidentiality obligations imposed by this
22 Order shall remain in effect until a Designating Party agrees otherwise in writing or a court order
23 otherwise directs. Final disposition will be deemed to be the later of (1) dismissal of all claims and
24 defenses in this Action, with or without prejudice; and (2) final judgment herein after the
25 completion and exhaustion of all appeals, rehearings, remands, trials, or reviews of this Action,
26 including the time limits for filing any motions or applications for extension of time pursuant to
27 applicable law.

28

1 5. DESIGNATING PROTECTED MATERIAL

2 5.1. Exercise of Restraint and Care in Designating Material for Protection

3 Each Party or Non-Party that designates information or items for protection under this
4 Order must take care to limit any such designation to specific material that qualifies under the
5 appropriate standards. The Designating Party must designate for protection only those parts of
6 material, documents, items, or oral or written communications that qualify so that other portions of
7 the material, documents, items, or communications for which protection is not warranted are not
8 swept unjustifiably within the ambit of this Order.

9 Mass, indiscriminate, or routinized designations are prohibited. Designations that are
10 shown to be clearly unjustified or that have been made for an improper purpose (e.g., to
11 unnecessarily encumber the case development process or to impose unnecessary expenses and
12 burdens on other parties) may expose the Designating Party to sanctions.

13 If it comes to a Designating Party's attention that information or items that it designated
14 for protection do not qualify for protection, that Designating Party must promptly notify all other
15 Parties that it is withdrawing the inapplicable designation.

16 5.2. Manner and Timing of Designations

17 Except as otherwise provided in this Order (see, e.g., second paragraph of section 5.2(a)
18 below), or as otherwise stipulated or ordered, Disclosure or Discovery Material that qualifies for
19 protection under this Order must be clearly so designated before the material is disclosed or
20 produced.

21 Designation in conformity with this Order requires:

22 (a) for information in documentary form (e.g., paper or electronic documents, but
23 excluding transcripts of depositions or other pretrial or trial proceedings), that the Producing Party
24 affix at a minimum, the legend "CONFIDENTIAL" (hereinafter "CONFIDENTIAL legend"), to
25 each page that contains protected material. If only a portion or portions of the material on a page
26 qualifies for protection, the Producing Party also must clearly identify the protected portion(s)
27 (e.g., by making appropriate markings in the margins).

28

1 A Party or Non-Party that makes original documents available for inspection need not
2 designate them for protection until after the inspecting Party has indicated which documents it
3 would like copied and produced. During the inspection and before the designation, all of the
4 material made available for inspection will be deemed “CONFIDENTIAL.” After the inspecting
5 Party has identified the documents it wants copied and produced, the Producing Party must
6 determine which documents, or portions thereof, qualify for protection under this Order. Then,
7 before producing the specified documents, the Producing Party must affix the
8 “CONFIDENTIAL,” and/or “PROTECTED HEALTH INFORMATION – SUBJECT TO
9 PROTECTIVE ORDER,” legend to each page that contains Protected Material. If only a portion
10 or portions of the material on a page qualifies for protection, the Producing Party also must clearly
11 identify the protected portion(s) (e.g., by making appropriate markings in the margins).

12 (b) for testimony given in depositions, that the Designating Party identify the
13 Disclosure or Discovery Material on the record, before the close of the deposition all protected
14 testimony.

15 (c) for testimony given in other pretrial proceedings, that the Designating Party
16 identify on the record, before the close of the hearing or other proceeding, all protected testimony.

17 (d) for information produced in some form other than documentary and for any other
18 tangible items, that the Producing Party affix in a prominent place on the exterior of the container
19 or containers in which the information is stored the legend “CONFIDENTIAL” and/or
20 “PROTECTED HEALTH INFORMATION – SUBJECT TO PROTECTIVE ORDER.” If only a
21 portion or portions of the information warrants protection, the Producing Party, to the extent
22 practicable, will identify the protected portion(s).

23 5.3. Protected Health Information. Pursuant to Rule 26(c) of the Federal Rules of Civil
24 Procedure and 45 C.F.R. § 164.512(e)(1), good cause exists for the issuance of a qualified
25 protective order. Confidentiality is required by HIPAA and the Privacy Regulations for all medical
26 health records and is necessary to protect Protected Health Information (“PHI”) maintained by any
27 party. Any party and/or Covered Entity who is served with a discovery request or subpoena in this
28 litigation may be required under Rule 26(b) of the Federal Rules of Civil Procedure to disclose

1 PHI in response to such request or subpoena, as permitted by law. Specifically, based on the
2 allegations set forth in Plaintiffs' Complaint, Defendant, and potentially third-parties, may be
3 compelled by request or subpoena to produce PHI of named Plaintiffs, the members of the
4 provisional class to which Plaintiffs represent, or employees of the Tulare County Sheriff's
5 Department. This Stipulation and Protective Order is intended to authorize such disclosures
6 pursuant to 45 C.F.R. § 164.512(e) of the Privacy Regulations issued pursuant to HIPAA, and to
7 extent compelled by law, Defendant must produce such documents, subject to the protections
8 afforded by this Stipulation and Order. However, nothing in this Order shall limit any party
9 and/or Covered Entity from redacting PHI that is irrelevant to this Action, consistent with 45
10 C.F.R. §§ 160.103, 164.501, and 164.514.

11 Further, pursuant to 45 C.F.R. § 164.512(e)(1)(v), this Order is also a Qualified Protective
12 Order and all parties and their attorneys are hereby:

13 (a) Prohibited from using or disclosing the PHI for any purpose other than this
14 litigation for which the PHI was requested, including any appeal thereof; and

15 (b) Required to return to the Covered Entity or to destroy the PHI (including all copies
16 made) obtained in this litigation within thirty (30) days of the entry of final judgment not subject
17 to further appeal, except that counsel are not required to secure the return or destruction of PHI
18 submitted to the Court.

19 5.4. Inadvertent Failures to Designate

20 If timely corrected, an inadvertent failure to designate qualified information or items does
21 not, standing alone, waive the Designating Party's right to secure protection under this Order for
22 such material. Upon timely correction of a designation, the Receiving Party must make reasonable
23 efforts to assure that the material is treated in accordance with the provisions of this Order.

24 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

25 6.1. Timing of Challenges. Any Party or Non-Party may challenge a designation of
26 confidentiality at any time that is consistent with the Court's Scheduling Order.

27 6.2. Meet and Confer. The Challenging Party will initiate the dispute resolution process
28 (and, if necessary, file a discovery motion) under Local Rule 251.

1 6.3. The burden of persuasion in any such challenge proceeding will be on the
2 Designating Party. Frivolous challenges, and those made for an improper purpose (e.g., to harass
3 or impose unnecessary expenses and burdens on other parties) may expose the Challenging Party
4 to sanctions. Unless the Designating Party has waived or withdrawn the confidentiality
5 designation, all parties will continue to afford the material in question the level of protection to
6 which it is entitled under the Producing Party’s designation until the Court rules on the challenge.

7 7. ACCESS TO AND USE OF PROTECTED MATERIAL

8 7.1. Basic Principles. A Receiving Party may use Protected Material that is disclosed or
9 produced by another Party or by a Non-Party in connection with this Action only for prosecuting,
10 defending, or attempting to settle this Action. Such Protected Material may be disclosed only to
11 the categories of persons and under the conditions described in this Order. When the Action has
12 been terminated, a Receiving Party must comply with the provisions of section 13 below (FINAL
13 DISPOSITION).

14 Protected Material must be stored and maintained by a Receiving Party at a location and in
15 a secure manner that ensures that access is limited to the persons authorized under this Order.

16 7.2. Disclosure of “CONFIDENTIAL” Information or Items. Unless otherwise ordered
17 by the Court or permitted in writing by the Designating Party, a Receiving Party may disclose any
18 information or item designated “CONFIDENTIAL” only to:

- 19 (a) the Receiving Party’s Outside Counsel of Record in this Action, as well as
20 employees of said Outside Counsel of Record to whom it is reasonably necessary to disclose the
21 information for this Action;
- 22 (b) the officers, directors, and employees (including House Counsel) of the Receiving
23 Party to whom disclosure is reasonably necessary for this Action;
- 24 (c) Experts (as defined in this Order) of the Receiving Party to whom disclosure is
25 reasonably necessary for this Action and who have signed the “Acknowledgment and Agreement
26 to Be Bound” (Exhibit A);
- 27 (d) the Court and its personnel;
- 28 (e) court reporters and their staff;

1 (f) professional jury or trial consultants, mock jurors, and Professional Vendors to
2 whom disclosure is reasonably necessary for this Action and who have signed the
3 “Acknowledgment and Agreement to Be Bound” (Exhibit A);

4 (g) the author or recipient of a document containing the information or a custodian or
5 other person who otherwise possessed or knew the information;

6 (h) the particular named Plaintiff whose health care records are received, or that named
7 Plaintiff’s representative (either the Plaintiff’s family member or his/her attorney);

8 (i) during their depositions, witnesses ,and attorneys for witnesses, in the Action to
9 whom disclosure is reasonably necessary provided: (1) the deposing party requests that the witness
10 sign the form attached as Exhibit A hereto; and (2) they will not be permitted to keep any
11 confidential information unless they sign the “Acknowledgment and Agreement to Be Bound”
12 (Exhibit A), unless otherwise agreed by the Designating Party or ordered by the Court. Pages of
13 transcribed deposition testimony or exhibits to depositions that reveal Protected Material may be
14 separately bound by the court reporter and may not be disclosed to anyone except as permitted
15 under this Stipulated Protective Order; and

16 (j) any mediator or settlement officer, and their supporting personnel, mutually agreed
17 upon by any of the parties engaged in settlement discussions.

18 8. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN OTHER
19 LITIGATION

20 If a Party is served with a subpoena or a court order issued in other litigation that compels
21 disclosure of any information or items designated in this Action as “CONFIDENTIAL,” that Party
22 must:

23 (a) promptly notify in writing the Designating Party. Such notification will include a
24 copy of the subpoena or court order;

25 (b) promptly notify in writing the party who caused the subpoena or order to issue in
26 the other litigation that some or all of the material covered by the subpoena or order is subject to
27 this Protective Order. Such notification will include a copy of this Stipulated Protective Order; and
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1 (c) cooperate with respect to all reasonable procedures sought to be pursued by the
2 Designating Party whose Protected Material may be affected.

3 If the Designating Party timely seeks a protective order, the Party served with the subpoena
4 or court order will not produce any information designated in this action as “CONFIDENTIAL”
5 before a determination by the court from which the subpoena or order issued, unless the Party has
6 obtained the Designating Party’s permission. The Designating Party will bear the burden and
7 expense of seeking protection in that court of its confidential material and nothing in these
8 provisions should be construed as authorizing or encouraging a Receiving Party in this Action to
9 disobey a lawful directive from another court.

10 9. A NON-PARTY’S PROTECTED MATERIAL SOUGHT TO BE PRODUCED IN THIS
11 LITIGATION

12 (a) The terms of this Order are applicable to information produced by a Non-Party in
13 this Action and designated as “CONFIDENTIAL.” Such information produced by Non-Parties in
14 connection with this litigation is protected by the remedies and relief provided by this Order.
15 Nothing in these provisions should be construed as prohibiting a Non-Party from seeking
16 additional protections.

17 (b) In the event that a Party is required, by a valid discovery request, to produce a Non-
18 Party’s confidential information in its possession, and the Party is subject to an agreement with the
19 Non-Party not to produce the Non-Party’s confidential information, then the Party will:

20 (i) promptly notify in writing the Requesting Party and the Non-Party
21 that some or all of the information requested is subject to a confidentiality
22 agreement with a Non-Party;

23 (ii) promptly provide the Non-Party with a copy of the Stipulated
24 Protective Order in this Action, the relevant discovery request(s), and a
25 reasonably specific description of the information requested; and

26 (iii) make the information requested available for inspection by the Non-
27 Party, if requested.

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1 (c) If the Non-Party fails to seek a protective order from this Court within 14 days of
2 receiving the notice and accompanying information, the Receiving Party may produce the Non-
3 Party's confidential information responsive to the discovery request. If the Non-Party timely seeks
4 a protective order, the Receiving Party will not produce any information in its possession or
5 control that is subject to the confidentiality agreement with the Non-Party before a determination
6 by the Court. Absent a court order to the contrary, the Non-Party will bear the burden and expense
7 of seeking protection in this Court of its Protected Material.

8 10. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

9 If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed Protected
10 Material to any person or in any circumstance not authorized under this Stipulated Protective
11 Order, the Receiving Party must immediately (a) notify in writing the Designating Party of the
12 unauthorized disclosures, (b) use its best efforts to retrieve all unauthorized copies of the Protected
13 Material, (c) inform the person or persons to whom unauthorized disclosures were made of all the
14 terms of this Order, and (d) request such person or persons to execute the "Acknowledgment and
15 Agreement to Be Bound" that is attached hereto as Exhibit A.

16 11. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE PROTECTED
17 MATERIAL

18 When a Producing Party gives notice to Receiving Parties that certain inadvertently
19 produced material is subject to a claim of privilege or other protection, the obligations of the
20 Receiving Parties are those set forth in Federal Rule of Civil Procedure 26(b)(5)(B). This
21 provision is not intended to modify whatever procedure may be established in an e-discovery order
22 that provides for production without prior privilege review. Pursuant to Federal Rule of Evidence
23 502(d) and (e), insofar as the parties reach an agreement on the effect of disclosure of a
24 communication or information covered by the attorney-client privilege or work product protection,
25 the parties may incorporate their agreement in the stipulated protective order submitted to the
26 Court.

27 12. MISCELLANEOUS

28 12.1. Right to Further Relief. Nothing in this Order abridges the right of any person to

1 seek its modification by the Court in the future.

2 12.2. Right to Assert Other Objections. By stipulating to the entry of this Protective
3 Order no Party waives any right it otherwise would have to object to disclosing or producing any
4 information or item on any ground not addressed in this Stipulated Protective Order. Similarly, no
5 Party waives any right to object on any ground to use in evidence of any of the material covered
6 by this Protective Order.

7 Filing Protected Material. A Party that seeks to file under seal any Protected Material must
8 comply with Local Rule 141. Protected Material may only be filed under seal pursuant to a
9 court order authorizing the sealing of the specific Protected Material at issue. If a Party's
10 request to file Protected Material under seal is denied by the Court, then the Receiving
11 Party may file the information in the public record unless otherwise instructed by the
12 Court.

13 13. FINAL DISPOSITION

14 After the final disposition of this Action, as defined in paragraph 4, within 60 days of a
15 written request by the Designating Party, each Receiving Party must return all Protected Material
16 to the Producing Party or destroy such material. As used in this subdivision, "all Protected
17 Material" includes all copies, abstracts, compilations, summaries, and any other format
18 reproducing or capturing any of the Protected Material. Whether the Protected Material is returned
19 or destroyed, the Receiving Party must submit a written certification to the Producing Party (and,
20 if not the same person or entity, to the Designating Party) by the 60 day deadline that (1) identifies
21 (by category, where appropriate) all the Protected Material that was returned or destroyed and (2)
22 affirms that the Receiving Party has not retained any copies, abstracts, compilations, summaries or
23 any other format reproducing or capturing any of the Protected Material. Notwithstanding this
24 provision, Counsel are entitled to retain an archival copy of all pleadings, motion papers, trial,
25 deposition, and hearing transcripts, legal memoranda, correspondence, deposition and trial
26 exhibits, expert reports, attorney work product, and consultant and expert work product, even if
27 such materials contain Protected Material. Any such archival copies that contain or constitute
28 Protected Material remain subject to this Protective Order as set forth in Section 4 (DURATION).

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ORDER

Pursuant to the stipulation of the parties, IT IS HEREBY ORDERED that:

1. The protective order is entered;
2. The parties are advised that pursuant to the Local Rules of the United States District Court, Eastern District of California, any documents which are to be filed under seal will require a written request which complies with Local Rule 141; and
3. The party making a request to file documents under seal shall be required to show good cause for documents attached to a nondispositive motion or compelling reasons for documents attached to a dispositive motion. Pintos v. Pacific Creditors Ass'n, 605 F.3d 665, 677-78 (9th Cir. 2009).

IT IS SO ORDERED.

Dated: October 13, 2020


UNITED STATES MAGISTRATE JUDGE

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EXHIBIT A

ACKNOWLEDGEMENT AND AGREEMENT TO BE BOUND

I, _____ **[full name]**, of _____
_____ **[full address]**, declare under penalty of perjury that I have read in its
entirety and understand the Stipulated Protective Order that was issued by the United States
District Court for the Central District of California on [date] in the case of *Criswell, et al. v. Boudreaux*, CV 1:20-cv-01048-DAD-SAB. I agree to comply with and to be bound by all the
terms of this Stipulated Protective Order and I understand and acknowledge that failure to so
comply could expose me to sanctions and punishment in the nature of contempt. I solemnly
promise that I will not disclose in any manner any information or item that is subject to this
Stipulated Protective Order to any person or entity except in strict compliance with the provisions
of this Order.

I further agree to submit to the jurisdiction of the United States District Court for the
Eastern District of California for the purpose of enforcing the terms of this Stipulated Protective
Order, even if such enforcement proceedings occur after termination of this action. I hereby
appoint _____ **[full name]** of _____
_____ **[full address and telephone number]** as my
California agent for service of process in connection with this action or any proceedings related to
enforcement of this Stipulated Protective Order.

Date: _____
City and State where signed: _____
Printed name: _____
Signature: _____